

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JUSTIN RIVERA,

Defendant.

19-CR-131 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On May 12, 2021, the Court convened a conference to discuss representation issues that defense counsel had raised in an *ex parte* letter to the Court. These issues, and the conference, largely focused on concerns regarding a private investigator, Manuel Gomez, whom defendant Justin Rivera had retained without the authorization or foreknowledge, and outside the direction, of defense counsel. In advance of the hearing, the Court had received credible evidence that Gomez, who had been similarly retained by Rivera's former co-defendant Carl Andrews, had engaged in witness tampering in connection with Andrews's upcoming trial in the Eastern District of New York, requiring, *inter alia*, the withdrawal of Andrews's counsel and the adjournment of Andrews's jury trial. At the May 12, 2021 conference, the Court was assured to learn that (1) the Government does not, to date, have evidence that any prospective witnesses in Rivera's case, or their families, have been contacted by Gomez or persons associated with him; (2) defense counsel unequivocally repudiates the use of Gomez in connection with this matter; and (3) according to Rivera, he has terminated the services of Gomez.

The Court stands ready to consider any well-founded application for injunctive relief as to the activities of Gomez and persons associated with him. In all events, even absent the entry of injunctive relief, the Court notifies counsel and the parties of the following.

1. The Court expects that trial witnesses have been notified of their rights and of appropriate persons to contact in the event of untoward activity towards them.
2. The Court expects to be alerted immediately in the event of any report of misconduct, including attempts to tamper with or intimidate witnesses or their families.
3. The Court notifies Rivera that witness tampering or misconduct by Gomez or persons associated with him, or any other person determined to have been acting as an agent of Rivera, may result in a variety of adverse consequences to Rivera. These include (1) the disqualification of Rivera's present counsel; (2) the adjournment of this trial; (3) the consideration by prosecutive authorities of additional charges against Rivera, and against persons associated with Rivera determined to be responsible for any conduct; and (4) the consideration of such conduct in connection with any sentencing proceeding that, in the event of a conviction, may be held in this case.
4. The Court notifies Gomez that this Court will not tolerate, and will respond decisively to, any witness tampering or other misconduct.

The Court directs Rivera's counsel to furnish a copy of this Order on Rivera, and directs the Government to serve a copy of this Order forthwith on Gomez.

SO ORDERED.

  
PAUL A. ENGELMAYER  
United States District Judge

Dated: May 14, 2021  
New York, New York